

## SENATE BILL No. 394

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 14-16-1.

**Synopsis:** Off-road vehicle operation. Requires the department of natural resources to adopt rules concerning safety training for off-road vehicle operators. Authorizes the department to charge a fee for issuance of a safety certification and establishes the off-road vehicle safety education and training program fund to be funded with certification fees. Allows a nonresident of the state to operate an off-road vehicle for not more than 20 days without a safety certification. Sets requirements for operation of off-road vehicles. Requires certain minors, when operating an off-road vehicle, to be supervised by an individual at least eighteen years of age. Makes conforming amendments.

**Effective:** July 1, 2004.

### Sipes

January 12, 2004, read first time and referred to Committee on Transportation and Homeland Security.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## SENATE BILL No. 394

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 14-16-1-2, AS AMENDED BY P.L.186-2003,  
2       SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2004]: Sec. 2. As used in this chapter, "dealer" means a  
4       person engaged in the commercial sale, **leasing, or renting** of off-road  
5       vehicles or snowmobiles **at a regular place of business**.

6       SECTION 2. IC 14-16-1-10, AS AMENDED BY P.L.186-2003,  
7       SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8       JULY 1, 2004]: Sec. 10. The revenues obtained under **section 9** of this  
9       chapter shall be deposited into the off-road vehicle and snowmobile  
10      fund under IC 14-16-1-30.

11      SECTION 3. IC 14-16-1-17.1 IS ADDED TO THE INDIANA  
12      CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
13      [EFFECTIVE JULY 1, 2004]: **Sec. 17.1. (a) The department shall**  
14      **adopt rules for the:**

15              **(1) establishment; and**

16              **(2) implementation;**

17      **of a comprehensive off-road vehicle safety education and training**



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program. The content of a safety education and training class under the program shall be adopted from a curriculum developed by a nationally recognized off-road vehicle safety organization.

(b) The rules must provide for the:

- (1) hands-on training of off-road vehicle operators and issuance of an off-road vehicle safety certificate to an operator who successfully completes the training program; or
- (2) issuance of an exceptional off-road safety certificate to an individual at least eighteen (18) years of age who demonstrates to the department at least one (1) year of experience in operating an off-road vehicle.

The rules must set the term that the certificate is valid and provisions for suspension or revocation of the certificate.

(c) The rules may authorize a person (as defined in IC 1-1-4-5(17)) to conduct training classes under the program as set forth in this section and to charge a reasonable fee, subject to approval by the department, for the training classes.

(d) The rules must provide that:

- (1) a person who conducts an off-road vehicle safety training class and issues an off-road vehicle safety certificate as authorized under subsection (b) must be certified by the department; and
- (2) in order to be certified, an individual at a minimum must:
  - (A) hold a current off-road vehicle safety certification or license issued by a nationally recognized off-road vehicle safety organization;
  - (B) be at least eighteen (18) years of age;
  - (C) have no convictions relating to the use of:
    - (i) alcohol; or
    - (ii) a controlled substance (as defined in IC 35-48-1-9);
 in the immediately preceding two (2) years before the date of application for certification; and
  - (D) have no prior convictions of a felony.

SECTION 4. IC 14-16-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) A vehicle registered in another state or country to a nonresident of Indiana may be operated within Indiana under authority of the registration for a period not to exceed twenty (20) days in one (1) year.

(b) A nonresident of Indiana may operate an off-road vehicle in Indiana for a period not to exceed twenty (20) days in one (1) year without holding an off-road vehicle safety certificate or exceptional off-road vehicle safety certificate issued under section 17.1(b) of

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1 **this chapter.**

2 SECTION 5. IC 14-16-1-20 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. (a) An individual  
4 may not operate a vehicle required to be registered under this chapter  
5 upon a public highway, street, or rights-of-way thereof or on a public  
6 or private parking lot not specifically designated for the use of vehicles,  
7 except under the following conditions:

8 (1) A vehicle may be operated on the public right-of-way adjacent  
9 to the traveled part of the public highway, except a limited access  
10 highway, if there is sufficient width to operate at a reasonable  
11 distance off and away from the traveled part and in a manner so  
12 as not to endanger life or property.

13 (2) The operator of a vehicle may cross a public highway, other  
14 than a limited access highway, at right angles for the purpose of  
15 getting from one (1) area to another when the operation can be  
16 done in safety. The operator shall bring the vehicle to a complete  
17 stop before proceeding across a public highway and shall yield the  
18 right-of-way to all traffic. **If an off-road vehicle is equipped**  
19 **with a headlight and taillight, both must be illuminated at the**  
20 **time of the crossing.**

21 (3) Notwithstanding this section, a vehicle may be operated on a  
22 highway in a county road system outside the corporate limits of a  
23 city or town if the highway is designated for this purpose by the  
24 county highway department having jurisdiction.

25 (4) A law enforcement officer of a city, town, or county or the  
26 state may authorize use of a vehicle on the public highways,  
27 streets, and rights-of-way within the officer's jurisdiction during  
28 emergencies when conventional motor vehicles cannot be used  
29 for transportation due to snow or other extreme highway  
30 conditions.

31 (5) A vehicle may be operated on a street or highway for a special  
32 event of limited duration conducted according to a prearranged  
33 schedule only under permit from the governmental unit having  
34 jurisdiction. The event may be conducted on the frozen surface of  
35 public waters only under permit from the department.

36 **(b) In addition to the conditions set forth in section 23.5 of this**  
37 **chapter,** an individual less than fourteen (14) years of age may not  
38 operate a vehicle without immediate supervision of an individual at  
39 least eighteen (18) years of age, except on land owned or under the  
40 control of the individual or the individual's parent or legal guardian.

41 (c) An individual may not operate a vehicle on a public highway  
42 without a valid motor vehicle driver's license.

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(d) A vehicle may not be used to hunt, pursue, worry, or kill a wild bird or a domestic or wild animal.

SECTION 6. IC 14-16-1-23, AS AMENDED BY P.L.186-2003, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 23. (a) **In addition to the conditions set forth in section 20 and 23.5 of this chapter**, an individual shall not operate a vehicle under any of the following conditions:

(1) At a rate of speed greater than is reasonable and proper having due regard for existing conditions or in a manner that unnecessarily endangers the person or property of another.

(2) While:

(A) under the influence of intoxicating liquor; or

(B) unlawfully under the influence of a narcotic or other habit forming or dangerous depressant or stimulant drug.

(3) During the hours from thirty (30) minutes after sunset to thirty (30) minutes before sunrise without displaying a lighted headlight and a lighted taillight.

(4) In a forest nursery, **in** a planting area, or **on** public land posted or reasonably identified as an area of forest or plant reproduction and when growing stock may be damaged.

(5) On the frozen surface of public waters within:

(A) one hundred (100) feet of an individual not in or upon a vehicle; or

(B) one hundred (100) feet of a fishing shanty or shelter; except at a speed of not more than five (5) miles per hour.

(6) Unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(7) Within one hundred (100) feet of a dwelling between midnight and 6:00 a.m., except on the individual's own property or property under the individual's control or as an invited guest.

(8) On any property without the consent of the landowner or tenant.

(9) While transporting on or in the vehicle a firearm unless the firearm is:

(A) unloaded; and

(B) securely encased or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

(10) On or across a cemetery or burial ground.

(11) Within one hundred (100) feet of a slide, ski, or skating area, except for the purpose of servicing the area.

(12) On a railroad track or railroad right-of-way, except railroad

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personnel in the performance of duties.

(13) In or upon a flowing river, stream, or creek, except for the purpose of crossing by the shortest possible route, unless the river, stream, or creek is of sufficient water depth to permit movement by flotation of the vehicle at all times.

(14) An individual shall not operate a vehicle while a bow is present in or on the vehicle if the nock of an arrow is in position on the string of the bow.

(b) Subsection (a)(9) does not apply to a person who is carrying a handgun if the person:

(1) has been issued an unlimited handgun license to carry a handgun under IC 35-47-2; or

(2) is not required to possess a license to carry a handgun under IC 35-47-2-2.

SECTION 7. IC 14-16-1-23.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 23.5. (a) Except as provided in section 19(b) of this chapter, an individual may not operate an off-road vehicle on public land without:**

(1) having been issued an off-road vehicle safety certificate or exceptional off-road vehicle safety certificate as set forth in section 17.1(b) of this chapter; and

(2) having the off-road vehicle safety certificate or exceptional off-road vehicle safety certificate in the individual's immediate possession.

**(b) An off-road vehicle may be operated:**

(1) on public land by an individual at least twelve (12) years of age if the engine capacity of the off-road vehicle does not exceed ninety (90) cubic centimeters; and

(2) on public land by an individual at least sixteen (16) years of age if the engine capacity of the off-road vehicle exceeds ninety (90) cubic centimeters.

**An individual who is at least twelve (12) years of age but less than sixteen (16) years of age who is operating an off-road vehicle pursuant to this subsection must be under the immediate supervision of another individual at least eighteen (18) years of age.**

**(c) An individual shall not operate an off-road vehicle on public land without:**

(1) protective glasses, goggles, or a transparent face shield; and

(2) protective headgear meeting the minimum standards under rules adopted by the department under IC 4-22-2.

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(d) An individual operating an off-road vehicle may not:

(1) ride other than on a permanent and regular seat on the off-road vehicle; and

(2) carry another individual on the off-road vehicle who is not seated on a firmly attached and regular seat on the off-road vehicle.

(e) An off-road vehicle operated on public property must be equipped with an effective spark arrester in good working order.

(f) The department may adopt rules for the equipment and lighting required for an off-road vehicle when participating in competitive events.

SECTION 8. IC 14-16-1-29.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 29.5. (a) Subject to subsection (b), in a proceeding to enforce section 23.5(a) of this chapter, the burden is on the individual charged with the violation to prove by a preponderance of the evidence that the individual had been issued an:**

(1) off-road vehicle safety certificate; or

(2) exceptional off-road vehicle safety certificate;

that was valid at the time of the alleged violation.

(b) An individual does not violate section 23.5(a) of this chapter if the individual, within five (5) days after the time of apprehension, produces to the apprehending officer or headquarters of the apprehending officer satisfactory evidence of an:

(1) off-road vehicle safety certificate; or

(2) exceptional off-road vehicle safety certificate;

issued to the individual that was valid at the time of the individual's apprehension.

SECTION 9. IC 14-16-1-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 31. (a) The department shall establish a fee for issuance of an:**

(1) off-road vehicle safety certificate; or

(2) exceptional off-road vehicle safety certificate;

as set forth in section 17.1(b) of this chapter by rules adopted under IC 4-22-2. The fee must be paid to the department before the off-road vehicle safety certificate or exceptional off-road vehicle safety certificate is issued to the applicant by the department.

(b) The off-road vehicle safety education and training program fund is established for the purpose of providing off-road vehicle

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safety education and training through the department, as provided by section 17.1 of this chapter.

(c) The fees collected by the department for issuance of off-road vehicle safety certificates and exceptional off-road vehicle safety certificates shall be deposited into the off-road vehicle safety education and training program fund.

(d) The department shall administer the off-road vehicle safety education and training program fund.

(e) The expenses of administering the off-road vehicle safety education and training program fund shall be paid from money in the fund.

(f) The treasurer of state shall invest the money in the off-road vehicle safety education and training program fund not currently needed to meet the obligations of the off-road vehicle safety education and training program fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the off-road vehicle safety education and training program fund.

(g) Money in the off-road vehicle safety education and training program fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 10. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 14-16-1-17.1, as added by this act, the requirement that the department of natural resources adopt rules for the:

(1) establishment; and

(2) implementation;

of a comprehensive off-road vehicle safety education and training program does not apply before January 1, 2006.

(b) Notwithstanding IC 14-16-1-23.5, as added by this act, the requirement that an individual who operates an off-road vehicle must have:

(1) attended and completed an off-road vehicle training program and been issued an off-road vehicle safety certificate; or

(2) been issued an exceptional off-road vehicle safety certificate;

and must carry the certificate when operating the off-road vehicle does not apply to the operator of an off-road vehicle operated on public land before January 1, 2006.

(c) This SECTION expires December 31, 2006.

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